

## REMARKS

### I. Oath/Declaration

The examiner stated that the oath or declaration is defective because a continuation or divisional requires a new declaration. A new declaration was filed on August 23, 2005, but we will re-submit this declaration with the current amendment in order to be fully responsive to the examiner's office action.

### II. Rejections Based on 35 U.S.C. §103

#### a. Claims 1-3, 6-8, and 13-14

The examiner has rejected Claims 1-3, 6-8 and 13-14 as being unpatentable over Heins in view of Richters et al. and Williams. Applicant has amended Claim 1 (upon which Claims 3 and 7 depend) and Claim 8 (upon which Claims 13 and 14 depend). Applicant has also cancelled Claims 2 and 6 without prejudice or disclaimer in response to the Examiner's rejection. Applicant respectfully submits that these claims, as amended, are not obvious in light of the cited combination of Heins, Richters et al. and Williams.

Applicant has amended Claims 1 and 8 to more patentably distinguish Claims 1-3, 6-8 and 13-14 over the prior art. In this regard, Applicant has added to Claims 1

and 8 the feature of the handle being located proximate a front end of the detachable roof portion in order for a driver to be able to initiate detachment of the detachable roof portion of the vehicle. This feature was present in Figures 2-5, among other places in the Specification, and thus this amendment is supported by the Specification. Applicant has also added to Claims 1 and 8 the feature of a plurality of prong members coupled to the back of the detachable roof portion and dimensioned to mate with corresponding recessed portions defined by the fixed top portion of the vehicle. This feature was present in original Claims 6 and 13, among other places in the Specification, and is added here to more patentably distinguish the claims over the prior art.

Heins, the primary reference cited, shows a detachable roof closure that is attached at four separate corners to a fixed roof portion. The roof portion can only be detached by releasing each of the four corner-mounted locking devices (see Figure 7) or by a single lever located in the center of the detachable roof section (shown in Figure 7). In an emergency it would be time-consuming and impractical to reach and unlock each of the four corner-mounted locking devices in order to detach the roof. If the sole occupant of the vehicle is the driver, and

assuming that the vehicle has been seriously damaged (thus necessitating the need for an emergency exit other than the doors or windows) it is most likely impossible that a driver in such a situation would be able to reach each of the four corners of the interior cabin of a vehicle. In the single lever embodiment of the Heins patent, the lever is located in a center portion of the detachable roof portion and is connected to the corner-mounted locking mechanisms by lever extensions extending radially from the center of the detachable roof portion to the four corners of the fixed roof portion of the vehicle. This arrangement is problematic on several accounts: 1) since the driver of the vehicle is the only guaranteed occupant of a vehicle a center-mounted lever is located behind the driver, making it difficult, if not impossible, for a driver in distress to reach over and behind his or her shoulder to reach the release lever; and 2) the lever extensions and corner-mounted detents of the Heins patent extend the apparatus to virtually the entire area of the detachable roof portion, meaning that if a single extension or corner-mounted detent is damaged or snagged (a likely event in a car crash) it is unlikely that a driver would be able to successfully detach the roof portion of the Heins invention.

In order for the combination reference of Heins, Richters et al. and Williams cited by the Examiner to satisfy the obviousness requirement, the prior art references must suggest the desirability of the combination. The mere fact that the references may be combined or modified does not in itself render the resultant combination obvious. In re Mills, 916 F.2d 680 (Fed. Cir. 1990). Furthermore, the level of skill in the art cannot be relied upon to provide the suggestion to combine references. Al-Site Corp. v. VSI Int'l Inc., 174 F.3d 1308 (Fed. Cir. 1999).

In this case, neither Williams nor Richters et al. make any suggestion of escaping through a detachable roof portion of a vehicle in case of emergency. Just the opposite, both references refer to their inventions as providing a pleasant driving experience (see Richters, et al. Column 1, Lines 54-55 "gives the rear-seat occupants the sensation of being driven in the open-air" and see Williams Paragraph 0005 "providing an open-air ride the top also allows for reduced amounts of element exposure to occupants." Neither Richters et al. nor Williams make any allowance for removing a portion of the roof quickly, as would be needed in an emergency situation, such as a car accident. Neither reference provides for a single handle

capable of releasing substantially the entire roof portion of the vehicle, nor is there a suggestion to modify the inventions for the purpose of providing immediate exit to a vehicle's occupants.

Accordingly, for the foregoing reasons, Applicant respectfully submits that Claims 1, 3, 7, 8, 13 and 14 are not obvious in light of the cited combination of Heins in view of Richters et al. and Williams.

b. Claims 4-5 and 9-12

The examiner has rejected Claims 4-5 and 9-12 as being unpatentable over Heins in view of either Richters et al. or Williams and further in view of Ferrigan. Applicant has cancelled Claims 4, 9 and 10 without prejudice or disclaimer. Independent Claim 1, upon which Claim 5 depends, and independent Claim 8, upon which Claims 11 and 12 depend, have been amended to more patentably distinguish over the prior art. For the same reason that Claim 1 and Claim 8 are not obvious in light of Heins, Richters et al. and Williams, Applicant respectfully submits that Claims 5, 11 and 12 are also patentably distinguishable over the cited references. The Ferrigan invention, like Richters et al. and Williams, is not designed for a quick, emergency exit from the vehicle. Ferrigan relates to sun roofs, which are generally not large enough to allow an

individual, let alone multiple individuals to crawl through.

c. Claims 5 and 12


The examiner has rejected Claims 5 and 12 as being unpatentable over Heins in view of either Richters et al. or Williams and further in view of Princell. Independent Claim 1, upon which Claim 5 depends, and independent Claim 8, upon which Claim 12 depends, have been amended to more patentably distinguish over the prior art. For the same reason that Claim 1 and Claim 8 are not obvious in light of Heins, Richters et al. and Williams, Applicant respectfully submits that Claims 5 and 12 are also patentably distinguishable over the cited references. The Princell invention, like Richters et al. and Williams, is not designed for a quick, emergency exit from the vehicle. Princell is actually designed for the exact opposite purpose, to lock the detachable roof portion in place and prevent its removal. Furthermore, if a proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. In re Gordon, 733 F.2d 900 (Fed. Cir. 1984).

III. Conclusion

Applicant respectfully submits that this Amendment, in view of the Remarks offered herein, is fully responsive to all aspects of the objections and rejections tendered by the Examiner in the Office Action. None of the cited prior art, nor any combination thereof, discloses a detachable roof portion large enough for a vehicle's occupants to climb through an opening created by the detachable roof portion's removal and capable of being detached by a single, quick-release handle located in front of the driver. For all of the foregoing reasons, the Applicant respectfully asserts that all claims are patentable over the cited prior art and respectfully requests that these claims be allowed.

If there are any fees incurred by this Amendment Letter, please deduct them from our Deposit Account No. 23-0830.

Respectfully submitted,

  
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